

ESTTA Tracking number: **ESTTA526399**

Filing date: **03/13/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Coolibar, Inc.
Granted to Date of previous extension	03/23/2013
Address	2401 Edgewood Avenue South St. Louis Park, MN 55426 UNITED STATES
Attorney information	Kari B. Frank Dorsey & Whitney LLP 50 South Sixth Street Suite 1500 Minneapolis, MN 55402 UNITED STATES ip.docket@dorsey.com, frank.kari@dorsey.com, nafziger.jamie@dorsey.com Phone:(612) 340-2600

### Applicant Information

Application No	85761996	Publication date	01/22/2013
Opposition Filing Date	03/13/2013	Opposition Period Ends	03/23/2013
Applicant	Kassarich, Alex 1 Loves Lane Wynnewood, PA 19096 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Hats; Hooded sweatshirts; Pants; Socks; Sweatshirts; T-shirts
--


### Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2916647	Application Date	07/15/2003
Registration Date	01/04/2005	Foreign Priority Date	NONE
Word Mark	NONE		





Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2002/10/09 First Use In Commerce: 2002/10/09 Hats, Caps, Headwear, Shoes, Shirts, Pants, Gloves, Shorts, Skirts, Swimsuits, Jackets, Sarongs, Coverups, Rompers, T-Shirts, and Driving Sleeves

U.S. Registration No.	3985994	Application Date	05/17/2007
Registration Date	06/28/2011	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a stylized tree design.		
Goods/Services	Class 024. First use: First Use: 2006/02/20 First Use In Commerce: 2006/02/20 Blanket Throws; Blankets for Outdoor Use; Children`s Blankets; Throws; Throws Designed to also be Wrapped Around a Person; Fabrics for the Manufacture of Clothing; Sun Protective Fabrics for the Manufacture of Clothing		

U.S. Registration No.	3174184	Application Date	02/06/2006
Registration Date	11/21/2006	Foreign Priority Date	NONE
Word Mark	NONE		



Design Mark	
Description of Mark	The mark consists of a stylized tree design.
Goods/Services	Class 009. First use: First Use: 2003/10/27 First Use In Commerce: 2003/10/27 Sunglasses

U.S. Registration No.	2917841	Application Date	07/15/2003
Registration Date	01/11/2005	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2004/03/15 First Use In Commerce: 2004/03/15 Umbrellas		

Attachments	76532799#TMSN.gif ( 1 page )( bytes ) 77184040#TMSN.jpeg ( 1 page )( bytes ) 78807594#TMSN.jpeg ( 1 page )( bytes ) 76529247#TMSN.gif ( 1 page )( bytes ) Notice of Opp.pdf ( 5 pages )(158636 bytes )
-------------	--

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.


Signature	/Kari B. Frank/
Name	Kari B. Frank



Date	03/13/2013
------	------------



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No.: 85/761,996  
Filed: October 24, 2012  
For the mark: **Tree Design**   
Published in the Official Gazette on: January 22, 2013

Coolibar, Inc.

Opposer,

vs.

Alex Kassarich

Applicant.

Opposition No: \_\_\_\_\_

Opposer's File No.: M237930

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

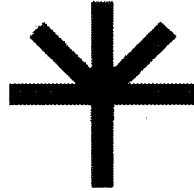
Opposer, Coolibar, Inc., organized and existing under the laws of the state of Delaware and having a place of business at 2401 Edgewood Avenue South, Suite 400, St. Louis Park, Minnesota 55426, believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

(1) Applicant, Alex Kassarich, an individual residing at 1 Loves Lane, Wynnewood, Pennsylvania 19096, has applied for registration on the Principal Register of the mark **Tree Design** as displayed above proposed for use with "Hats; Hooded sweatshirts; Pants; Socks; Sweatshirts; T-shirts" in International Class 25. The application was filed on October 24, 2012,

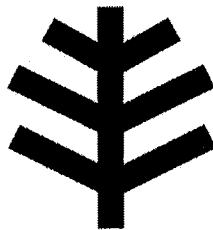


assigned serial number 85/761,996, and published for opposition on January 22, 2013. An image of Applicant's **Tree Design** mark is shown below:



(2) Opposer requested and was granted a 30-day extension of the deadline to file an opposition by the Trademark Trial and Appeal Board which extended the deadline to March 23, 2013.

(3) Opposer is the owner of U.S. Trademark Registration No. 2,916,647 for the mark **Tree Design**, filed July 15, 2003, and registered January 4, 2005, on the Principal Register for use with "Hats, Caps, Headwear, Shoes, Shirts, Pants, Gloves, Shorts, Skirts, Swimsuits, Jackets, Sarongs, Coverups, Rompers, T-Shirts, and Driving Sleeves" in International Class 25. An image of Opposer's **Tree Design** mark is shown below:



(4) Opposer is the owner of U.S. Trademark Registration No. 3,985,994 for the mark **Tree Design**, as shown in Paragraph (3) above, filed May 17, 2007, and registered June 28, 2011, on the Principal Register for "Blanket Throws; Blankets for Outdoor Use; Children's Blankets; Throws; Throws Designed to Also be Wrapped Around a Person; Fabrics for the Manufacture of Clothing; Sun Protective Fabrics for the Manufacture of Clothing" in International Class 24.



(5) Opposer is the owner of U.S. Trademark Registration No. 3,174,184 for the mark **Tree Design**, as shown in Paragraph (3) above, filed February 6, 2006, and registered November 21, 2006, on the Principal Register for "Sunglasses" in International Class 9.

(6) Opposer is the owner of U.S. Trademark Registration No. 2,917,841 for the mark **Tree Design**, as shown in Paragraph (3) above, filed July 15, 2003, and registered January 11, 2005, on the Principal Register for "Umbrellas" in International Class 18.

(7) Opposer has priority over Applicant, based on Opposer's prior registrations and prior use of its **Tree Design** mark throughout the United States.

(8) The mark **Tree Design** proposed for registration by Applicant and displayed in Paragraph (1) is highly similar in appearance to Opposer's **Tree Design** mark as displayed in Paragraph (3).

(9) Opposer's and Applicant's goods are either identical or closely related (particularly with respect to various goods contained in Opposer's Class 25 registration for its **Tree Design** mark) and are likely to be offered to overlapping customers and in overlapping channels of commerce.

(10) As a result of the confusing similarity between Opposer's and Applicant's marks and, because Applicant's and Opposer's goods are either identical or closely related, are likely to be sold in overlapping channels of commerce, and are likely to be directed to overlapping customers, registration of Applicant's mark **Tree Design** in connection with Applicant's goods is likely to cause confusion or mistake or is likely to deceive purchasers as to the source or sponsorship of such goods.

WHEREFORE, Opposer, Coolibar, Inc., prays that application Serial No. 85/761,996 be rejected and that registration of the mark **Tree Design** be refused.

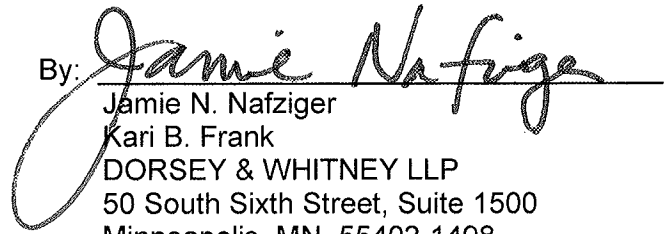


Respectfully submitted,

COOLIBAR, INC.

Date: March 12, 2013

By:

A large, stylized handwritten signature in cursive script, reading "Jamie Nafziger", is written over a horizontal line. The signature is written in dark ink and is the primary visual element of the signature block.

Jamie N. Nafziger

Kari B. Frank

DORSEY & WHITNEY LLP

50 South Sixth Street, Suite 1500

Minneapolis, MN 55402-1498

Ph.: (612) 343-7922

Fax: (612) 340-8856


Email: [ip.docket@dorsey.com](mailto:ip.docket@dorsey.com)

Attorneys for Opposer




**CERTIFICATE OF ELECTRONIC TRANSMISSION**

I hereby certify that this correspondence is being transmitted electronically through ESTTA pursuant to 37 C.F.R. § 2.195(a) on this 13<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
Kari B. Frank

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document has been served via first-class mail, postage prepaid, to Alex Kassarich at 1 Loves Lane, Wynnewood, PA 19096, this 13<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
Kari B. Frank